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08/281,790 07/28/94 LAU

L ACS35765 (380)

EXAMINER  
BENNETT, C

F3M1/0619

FULWIDER, PATTON, LEE & UTECHT  
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ART UNIT PAPER NUMBER

3307

DATE MAILED: 06/19/95

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

This application has been examined.  Responsive to communication filed on 2/27/95  This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), \_\_\_\_\_ days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1.  Notice of References Cited by Examiner, PTO-892.
2.  Notice re Patent Drawing, PTO-948.
3.  Notice of Art Cited by Applicant, PTO-1449.
4.  Notice of Informal Patent Application, Form PTO-152.
5.  Information on How to Effect Drawing Changes, PTO-1474.
6.

Part II SUMMARY OF ACTION

1.  Claims 1-22, 25, 26 are pending in the application.

Of the above, claims \_\_\_\_\_ are withdrawn from consideration.

2.  Claims 23, 24 have been cancelled.

3.  Claims 1-22, 26 are allowed.

4.  Claims 25 are rejected.

5.  Claims \_\_\_\_\_ are objected to.

6.  Claims \_\_\_\_\_ are subject to restriction or election requirement.

7.  This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8.  Formal drawings are required in response to this Office action.

9.  The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are  acceptable,  not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

10.  The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_ has (have) been  approved by the examiner.  disapproved by the examiner (see explanation).

11.  The proposed drawing correction, filed on \_\_\_\_\_, has been  approved.  disapproved (see explanation).

12.  Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has  been received  not been received  been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_

13.  Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14.  Other

EXAMINER'S ACTION

Art Unit 3307

1. It is noted that the preliminary amendment filed on 12 August 1994 was overlooked in the application at the time of the first office action; therefore, new claims 25 and 26 presented in pre-amendment A have not been previously considered. Accordingly, this office action is not made final.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless –  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.*

2. **Claim 25 is rejected under 35 U.S.C. § 102(e) as being anticipated by Wiktor ('458).**

Wiktor teaches a longitudinally flexible stent comprising: a stent 1 formed of a biologically compatible material, in this case titanium or gold; said stent having a first end and a second end and a substantially cylindrical body portion; said stent expanding from a first diameter (see Fig. 4) to a second larger diameter (see figs. 5 and 6); wherein said stent does not substantially shorten upon expansion from said first diameter to said second diameter.

3. **Claims 1-22 and 26 are allowable over the prior art of record.**

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4. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Chris A. Bennett, whose telephone number (703) 308-0980.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0858.

The fax number for this group is (703) 305-3590, 91.



CHRIS A. BENNETT  
PATENT EXAMINER  
GROUP 3300

CAB  
May 26, 1995